

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 AID-05 L-03 EB-07 IGA-02 SSO-00 JUSE-00

OPIC-03 CIAE-00 INR-07 NSAE-00 INRE-00 /038 W

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 8427

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FOR SCHNEIDER AND KUX FROM DRIESBERG

EO 11652: NA

TAGS: OGEN, IN

SUBJ: EAST INDIA HOTELS AND PIBCO LOANS

REF: STATE 228655

1. IN LIGHT OF REFTTEL, WE WOULD LIKE TO REVIEW THE STATE OF PLAY WITH BOTH PIBCO AND EAST INDIA HOTELS LOANS. OUR CONCLUSION IS THAT THE ACTION LIES WITH AID/W AND THE DEPT OF JUSTICE, NOT HERE.

2. STARTING WITH JUNE 23, STATE 155109, STATES THAT OPIC AGREES WITH MISSION THAT PIBCO LOAN SHOULD NOW BE CALLED BUT THAT IT IS ADVISABLE THAT LEGAL ACTION BE DEFERRED FOR THE PRESENT, FOLLOWED BY STATE 176178 WHICH RECALSS THAT MISSION IS AUTHORIZED TO CALL THE PIBCO LOAN BUT DEFERS AUTHORITY TO START LEGAL ACTION PENDING AID/W- JUSTICE REVIEW.

3. CLEARLY AT THIS POINT THE MISSION HAD REQUESTED THE CALLING OF THE PIBCO LOAN. WE HAD BEEN GRANTED THAT WUTHORITY TO CALL THE LOAN FROM AID/W UP TO THE POINT OF TAKING LEGAL ACTON. AMBASSADOR SAXBE THEN SENT A CABLE (NEW DELHI 11680) TO DEPUTY ADMINISTRATOR MURPHY, STATING THAT WE WOULD CONTINUE TO TALK WITH THE OBEROIS BUT MUST

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MOVE RAPIDLY TO TAKE THE REQUIRED STEPS AS PROVIDED UNDER

OUR LOAN AGREEMENT IF A REASONABLE SOLUTION CANNOT BE FOUND IN THE NEAR FUTURE, AND NOTED THAT WE STILL LACK AUTHORIZATION TO PROCEED.

4. IN STATE 200887, DEPUTY ADMINISTRATOR MURPHY REPLIED TO AMBASSADOR SAXBE, AGREEING TO OUR CALLING THE PIBCO LOAN BUT ADVISING THAT LEGAL PROCEEDINGS WERE STILL BEING DISCUSSED WITH THE JUSTICE DEPARTMENT.

5. STATE 202671 ASKED FOR ADDITIONAL INFORMATION ON THE PIBCO LOAN AND WE REPLIED IN NEW DELHI 12139 WITH REASONS FOR PROCEEDING WITH LEGAL ACTION. WE NOTED IN THIS MESSAGE THAT WE WERE MOVING AHEAD WITH CALLING THE LOAN ON EAST INDIA HOTELS AND HOPED AID/W COULD CLARIFY THE ISSUE OF LEGAL ACTION WITH THE DEPT OF JUSTICE.

6. WE THEN FOLLOWED WITH NEW DELHI 12059 IN WHICH WE ADVISED THAT THE AID AFFAIRS OFFICER WAS MEETING WITH OBEROI TO TELL HIM WE INTENDED TO INFORM THE MINISTRY OF FINANCE THAT WE WERE GOING TO CALL THE EIH LOAN AND TO INFORM KRISHNASWAMY OF THE MOF THAT WE INTENDED TO CALL THE EIH LOAN IN 30 DAYS IF A SOLUTION WERE NOT FOUND TO SOLVE THEIR FINANCIAL PROBLEM TO PERMIT THEM TO PAY THE DEFAULT PRINCIPAL PAYMENTS AND TO BE ABLE TO CONTINUE THEIR PAYMENTS ON A REGULAR BASIS AS PER THE LOAN AGREEMENT.

7. WE THEN FOLLOWED WITH NEW DELHI 12732 WHICH INFORMED DEPARTMENT THAT WE HAD TOLD KRISHNASWAMY THAT WE BELIEVED THE OBEROIS HAD HAD SUFFICIENT TIME TO COME UP WITH A FINANCIAL SOLUTION WHICH WOULD PERMIT THEM TO PAY THE DELINQUENT PRINCIPAL PAYMENTS TO AID AND THAT WE WERE INFORMING OBEROI THAT IF THE MINISTRY, IN CONCERT WITH EIH, IS NOT ABLE TO COME UP WITH A SATISFACTORY SOLUTION TO THE PROBLEM, WE WOULD CALL THE LOAN ON SEPTEMBER 30.

8. ON SEPTEMBER 14 WE SENT YOU NEW DELHI 13553 AGAIN SAYING THAT WE REALIZE THERE WERE BUREAUCRATIC PROBLEMS WITH RESPECT TO NEGOTIATING WITH DEPT OF JUSTICE, THAT WE HAD NOT HEARD FOR A MONTH ABOUT LEGAL AUTHORIZATION TO MOVE AHEAD WITH CALLING THE PIBCO LOAN, AND THAT WE LIMITED OFFICIAL USE

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WANTED AN UPDATING ON THIS SITUATION ASAP.

9. IT SEEMS TO US THAT WE HAVE STATED OUR CASE CLEARLY TO AID/W AND ARE STILL AWAITING FORMAL APPROVAL FOR LEGAL ACTION FROM THE DEPT OF JUSTICE. WE HAVE ASSMED ALL ALONG THAT REQUESTING THE AUTHORITY TO CALL EITHER THE PIBCO OR EIH LOAN WOULD GO FROM THE MISSION TO AID/W AND THEN FROM AID/2 TO THE DEPT OF JUSTICE. THEREFORE, EXCEPT IN DIS-

CUSSIONS OF LEGAL OPTIONS ON PIBCO, WE HAVE NOT COMMUNICATED DIRECTLY WITH THE DEPT OF JUSTICE. IF THIS IS IN ERROR AND WE SHOULD GO DIRECTLY TO THE DEPT OF JUSTICE, WE WOULD APPRECIATE CLARIFICATION. PLEASE ADVISE.

10. FYI: VINCE RAKESTRAW IS TELEPHONING BRUNO RISTAU, CHIEF, FOREIGN LITIGATION UNIT AT THE DEPT OF JUSTICE CONCERNING THIS MATTER OF JUSTICE TAKING LEGAL ACTION ON BEHALF OF AID.

11. APPRECIATE IF INFORMATION COPY SHARED WITH MIKE HAGER. SAXBE

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